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भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

Legislative Department

New Delhi, the 25th January, 1969/Magha 5, 1890 (Saka)

The following President's Act is published for general information:—

THE CHOTA NAGPUR TENANCY (AMENDMENT) ACT, 1969

No. 4 OF 1969

Enacted by the President in the Nineteenth Year of the Republic of India.

An Act further to amend the Chota Nagpur Tenancy Act, 1908.

39 of 1968. In exercise of the powers conferred by section 3 of the Bihar State Legislature (Delegation of Powers) Act, 1968, the President is pleased to enact as follows:—

Short title 1. This Act may be called the Chota Nagpur Tenancy (Amendment) Act, 1969.

Amendment of section 46.

2. In section 46 of the Chota Nagpur Tenancy Act, 1908 (hereinafter referred to as the principal Act), Bengal Act 6 of 1908.—

(*a*) in the second proviso to sub-section (*1*),—

(*i*) the word "and" at the end of clause (*b*) shall be omitted;

(*ii*) for clause (c), the following clauses shall be substituted, namely:—

"(c) an occupancy-*raiyat* who is a member of the Scheduled Tribes or Scheduled Castes may, with the previous sanction of the Deputy Commissioner, or an occupancy-*raiyat* who is a member of the backward classes may, without such previous sanction, transfer by simple mortgage his right in his holding or any portion thereof to a society or bank registered or deemed to be registered under the Bihar and Orissa Co-operative Societies Act, 1935, or to a company or a corporation owned by, or in which not less than fifty-one per cent. of the share capital is held by, the State Government or the Central Government or partly by the State Government and partly by the Central Government, and which has been set up with a view to provide agricultural credit to cultivators; and Bihar and Orissa Act VI of 1935

(d) an occupancy-*raiyat* who is not a member of the Scheduled Tribes, Scheduled Castes or backward classes, may, without the sanction of the Deputy Commissioner, transfer his right in his holding or any portion thereof by sale, exchange, gift, will, mortgage or otherwise, to any other person.";

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) Notwithstanding anything contained in any other law for the time being in force, the Deputy Commissioner shall be a necessary party in all suits of a civil nature relating to any holding or portion thereof in which one of the parties to the suit is a member of the Scheduled Tribes and the other party is not a member of the Scheduled Tribes.";

(*c*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*4A*) (*a*) The Deputy Commissioner may, of his own motion or on an application filed before him by an occupancy-

raiyat who is a member of the Scheduled Tribes, for annulling the transfer on the ground that the transfer was made in contravention of clause (*a*) of the second proviso to sub-section (*1*), hold an inquiry in the prescribed manner to determine if the transfer had been made in contravention of clause (*a*) of the second proviso to sub-section (*1*):

Provided that no such application shall be entertained by the Deputy Commissioner unless it is filed by the occupancy tenant within a period of twelve years from the date of transfer of his holding or any portion thereof:

Provided further that before passing any order under clause (*b*) or clause (*c*) of this sub-section, the Deputy Commissioner shall give the parties concerned a reasonable opportunity to be heard in the matter.

(*b*) If after holding the inquiry referred to in clause (*a*) of this sub-section, the Deputy Commissioner finds that there was no contravention of clause (*a*) of the second proviso to sub-section (*1*) in making such transfer, he shall reject the application and may award such costs to the transferee to be paid by the transferor as he may in the circumstances of the case deem fit.

(*c*) If after holding the inquiry referred to in clause (*a*) of this sub-section, the Deputy Commissioner finds that such transfer was made in contravention of clause (*a*) of the second proviso to sub-section (*1*), he shall annul the transfer and eject the transferee from such holding or portion thereof, as the case may be, and put the transferor in possession thereof:

Provided that if the transferee has constructed any building or structure on such holding or portion thereof, the Deputy Commissioner shall, if the transferor is not willing to pay the value of the same, order the transferee to remove the same within a period of six months from the date of the order, or within such extended time not exceeding two years from the date of the order as the Deputy Commissioner may allow, failing which the Deputy Commissioner may get such building or structure removed:

Provided further that where the Deputy Commissioner is satisfied that the transferee has constructed a substantial

structure or building on such holding or portion thereof before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1969, he may, notwithstanding any other provisions of this Act, validate such a transfer made in contravention of clause (*a*) of the second proviso to sub-section (*1*), if the transferee either makes available to the transferor an alternative holding or portion of a holding, as the case may be, of the equivalent value, in the vicinity or pays adequate compensation to be determined by the Deputy Commissioner for rehabilitation of the transferor.".

Amendment of section 47.

3. In section 47 of the principal Act, for clause (bb) of the proviso, the following clause shall be substituted, namely:—

"(*bb*) any holding or portion of a holding belonging to any occupancy-*raiyat* may be sold, under the procedure provided by the Bihar and Orissa Public Demands Recovery Act, 1914, for the recovery of a loan granted by a society or bank, registered or deemed to be registered under the Bihar and Orissa Co-operative Societies Act, 1935, or a company or a corporation owned by, or in which not less than fifty-one per cent. of the share capital is held by the State Government or the Central Government or partly by the State Government and partly by the Central Government, and which has been set up with a view to provide agricultural credit to cultivators; so, however, that if such holding or portion thereof belongs to a member of the Scheduled Tribes or Scheduled Castes, it shall not be sold to any person who is not a member of the Scheduled Tribes, or, as the case may be, of the Scheduled Castes.". Bihar and Orissa Act IV of 1914. Bihar and Orissa Act VI of 1935.

Amendment of section 49.

4. In section 49 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) The State Government may, at any time within a period of twelve years from the date in which written consent is given by the Deputy Commissioner in regard to the transfer of any holding or part thereof belonging to an occupancy-*raiyat* who is a member of the Scheduled Tribes, either on its own motion or on an application made to it in this behalf, set aside such written consent and annul the transfer, if after holding an inquiry in the prescribed manner and after giving reasonable opportunity to the parties concerned to be heard in the matter, it finds that the consent had been obtained in contravention of the provisions of sub-sections (*1*) and (*2*) by mis-representation or fraud, and in case any holding or part thereof has been transferred on the basis of such written consent, direct the Deputy

Commissioner to take further necessary action under clause (c) of sub-section (*4A*) of section 46.".

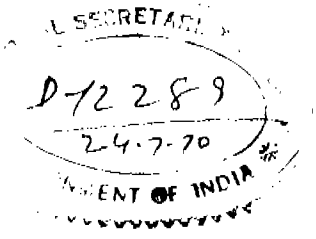
ZAKIR HUSAIN,
President.

V. N. BHATIA,
Secy. to the Govt. of India.

Reasons for the enactment

As the tenancy law in Chota Nagpur Division of Bihar at present stands, a *raiyat* who is a member of the Scheduled Tribes, Scheduled Castes or backward classes is not permitted to execute a simple mortgage in favour of co-operative institutions or Government controlled companies or corporations set up to provide agricultural credit to farmers for raising medium and long-term loans for agricultural development. With a view to increasing agricultural production in the Chota Nagpur Division by making available institutional credit, it is considered necessary to provide for the right of simple mortgage to members of the Scheduled Tribes, Scheduled Castes and backward classes in favour of a bank or society registered under the Co-operative Societies Act or a company or corporation owned by the State or Central Government, specially set up for providing agricultural credit to cultivators. At the same time, with a view to ensuring that lands belonging to members of the Scheduled Tribes or Scheduled Castes do not pass on to other persons, it is considered necessary to confine the sale of a holding for recovery of loan in such cases to members of the Scheduled Tribes, or, as the case may be, Scheduled Castes. Opportunity has also been taken to remove certain restrictions imposed on *raiyats* who are not members of the Scheduled Tribes, Scheduled Castes and backward classes under clause (c) of the second proviso to sub-section (*1*) of section 46 of the Chota Nagpur Tenancy Act, 1908, to transfer his right in his holding or any portion thereof, in the light of a recent judgment of the Patna High Court, reported as AIR 1968, Patna 310.

2. In order to make the existing restrictions on transfer more effective and to ensure that the *raiyats* who are members of the Scheduled Tribes are not prejudiced, it is further considered necessary to provide that the Deputy Commissioner shall be a party to every suit for declaration of title or possession relating to lands held by members of the Scheduled Tribes.



3. It is also considered necessary to empower the Deputy Commissioner to enquire into the transfers made in contravention of the provision restricting transfer of land belonging to a member of the Scheduled Tribes to any other person who is not a member of the Scheduled Tribes, and annul or approve the transfer as considered fit in the interests of the Scheduled Tribes. It is further considered necessary to confer power upon the State Government to revise the orders of the Deputy Commissioner in suitable cases.

4. In order to achieve these objectives, the present measure is being enacted.

5. The Committee constituted under the proviso to sub-section (2) of section 3 of the Bihar State Legislature (Delegation of Powers) Act, 1968 (39 of 1968) has been consulted before enactment of this measure as a President's Act.

B. R. PATEL,

Secy. to the Govt. of India,
Ministry of Food, Agriculture,
Community Development and Co-operation
(Department of Agriculture).

ERRATUM

In Issue No. 81 of the Gazette of India, Extraordinary, Part II, Section 1, dated the 28th December, 1968—

In the Food Corporations (Amendment) Act, 1968 (No. 57 of 1968)—

Page 778—

After Section 2, insert the following:—

Amendment of section 2 of Act 14 of 1947.

"3. In section 2 of the Industrial Disputes Act, 1947 ,in sub-clause (*i*) of clause (*a*), after the words and figures "the Unit Trust of India Act, 1963, or", the words and figures "the Food Corporation of India established under section 3, or a Board of Management established for two or more contiguous States under section 16, of the Food Corporations Act, 1964, or" shall be inserted.". 37 of 1964.

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